EXHIBIT 10

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
THIRD DIVISION

EDISON RUNYAN; DWIGHT PIPES; EARL L. PURIFOY; JOHN ROSS, As the Legal Representative of ELIZABETH ROSS; MARY WEIDMAN; DURAIN WEIDMAN; MARION HARRIS; and VAN R. NOLAN, Each Individually, and on Behalf of All Others Similarly Situated,

Plaintiffs

V. CV 2009-2066

TRANSAMERICA LIFE INSURANCE COMPANY; LIFE INVESTORS INSURANCE COMPANY OF AMERICA; MONUMENTAL LIFE INSURANCE COMPANY; and AEGON USA, INC.,

Defendants

A P P E A R A N C E S

REPRESENTING THE PLAINTIFFS:
TOM THOMPSON, Esquire
Murphy, Thompson, Arnold, Skinner & Castleberry
Post Office Box 2595
Batesville, Arkansas 72503

STAN P. BAUDIN, Esquire
Pendley, Baudin & Coffin, LLP
24110 Eden Street
Plaquemine, Louisiana 70764

PHILIP BOHRER, Esquire
SCOTT E. BRADY, Esquire
Bohrer Law Firm, LLC
8712 Jefferson Highway, Suite B
Baton Rouge, Louisiana 70809

REPRESENTING THE DEFENDANT:
JOHN K. BAKER, Esquire
Mitchell, Williams, Selig, Gates & Woodyard, PLLC
425 West Capitol Avenue, Suite 1800
Little Rock, Arkansas 72201

MARKHAM R. LEVENTHAL, Esquire
JULIANNA THOMAS McCABE, Esquire
Jordan Burt, LLP
777 Brickell Avenue, Suite 500
Miami, Florida 33131

REPRESENTING NAOMI CROCKER:
RICHARD T. PHILLIPS, Esquire
JASON NABORS, Esquire
Smith Phillips
Post Office Drawer 1586
Batesville, Mississippi 38606

REPRESENTING JACKIE QUEEN, HOWARD BARNHILL, JOANNE W. GIBSON, STEPHEN K. HEGE, AND LILLIAN LOGAN:
PATRICK KNIE, Esquire
Post Office Box 3544
Spartanburg, South Carolina 29304

REPRESENTING WILLIAM SHEPHERD:
TODD TURNER, Esquire
DAN TURNER, Esquire
Turner & Turner
Post Office Box 86
Arkadelphia, Arkansas 71923

BE IT REMEMBERED, that on the 9th day of November, 2009, the above-referenced cause came before the Honorable Jay Moody for hearing. The proceedings were had and done as follows:

information, that letter contained those two motions, and then it contained the supplemental materials that we submitted.

MR. BOHRER: We have it. We just had not seen it referred to.

THE COURT: Here's the motion to carve out, if you want to look at it real quick. I'll bet you could read it in about 20 seconds.

MR. LEVENTHAL: Well, I mean, looking at this, Your Honor, this is nothing more than trying to convert an objection into a motion. If the Court wants to hear argument on it, we'll be glad to argue it.

THE COURT: All right. Can I have mine back, or do you need it to argue? Go ahead, Mr. Knie.

MR. KNIE: Thank you, Your Honor. May it please the Court, Patrick Knie from Spartanburg, South Carolina. The first motion before the Court is a motion to carve out South Carolina as a class. We're actually asking this Court for relief in the form of being totally released from this litigation. Obviously, the Court has the power, in the alternative, to create a subclass that would protect and define the rights that are unique to the citizens of South Carolina.

Very briefly, Your Honor, there are three main

issues that I would like to cover. First, I'm sure as the Court is well aware, South Carolina is -- from the plaintiff's perspective, is very fortunate to have the Ward decision, which is the rule of law in our state. The Ward decision defined -- found that "actual charges" was an ambiguous term. And therefore, the 4th Circuit Court of Appeals looked at it in favor of the plaintiffs and said that actual charges meant the actual amount billed by medical providers.

As a result of that 4th Circuit decision, the US District Court in South Carolina ultimately granted summary judgment and judgment on the pleadings. I have those documents, Your Honor, with me. And in this maze of materials that we have, sometimes they're hard to find.

But if I may, Your Honor, I would hand up the order on damages in the South Carolina case. Actually, it's the order of judgment. I apologize. The significant -- if I may, Your Honor.

THE COURT: Sure.

MR. KNIE: The significant point in that order of judgment is -- and for counsel's information, that's entry number 403 Federal District Court in South Carolina in the Ward case, is the exhibit. And what happened as a result of the fact that summary judgment

was granted, Your Honor, is that South Carolinians in that case, which is an identical case to our case, were not awarded a maximum of $15,000, but were awarded amounts like 75,000, 126-, 193,000, 167-, amazing amounts of money because these policies were very lucrative as they were first administered.

And so to force South Carolinians to be put in a category with individuals from other states that don't have the benefit of the Ward decision would be a travesty of justice for those individuals. Mr. Hege alone has $75,000 in claims pending. He's a terminal cancer patient. He may end up with $300,000 in claims. So we would first say, because of the Ward decision alone, South Carolinians should be carved out.

Secondly, the defense in this case has made a great deal, not only in South Carolina, but with respect to the whole national class in talking about a South Carolina statute which was enacted in 2008 that now defines what they believe to be the correct definition of actual charges. Well, what they have not informed the Court is that in fact, that statute has been ruled by this same judge, Judge Joe Anderson, as prospective in nature, meaning that it does not apply to any of the policyholders that are subject to this class action settlement.

Now, the travesty of all that is, that statute is in the class notice. And so when South Carolinians read the class notice and saw that there's this statute that defines actual charges in some new way and that it must apply to them, that's totally incorrect. And with the Court's permission, I would pass up that order -- I think it deals with other things, as well. But I think page 6 -- well, page 7 I've actually highlighted for you, Your Honor, where it will show as clearly prospective.

So there's a problem, Your Honor, of course, with the notice because of that. We have the Ward decision. And I'll wait a minute while the Court reads.

THE COURT: I've read it. Thank you.

MR. KNIE: But we are even more unique. We have a South Carolina insurance regulation that is in effect in our state that says you cannot reduce or eliminate benefits of a policyholder in our state without their signed agreement to that effect. So what this Court would be doing is judicially setting aside that insurance regulation and saying despite the fact that South Carolinians have to sign for them doing what they want to do to us, this Court is saying that's okay. And as far as this class settlement, that doesn't matter. And I don't -- I wouldn't think that would be

the Court's intent to do that.

Now, in addition, Your Honor, to the best of my knowledge, these gentlemen, in their effort to bring this matter before the Court, have not done any detailed analysis of South Carolina law. And if they have, I certainly have not seen it thus far presented to the Court.

Your Honor, the -- there is a US Supreme Court decision that says in a national class, that that is important. And of course, had they done that for this Court -- and they may still be planning on doing that today -- this Court would be aware of the points that I have just made.

Your Honor, one last point that I think is very important. We have a line of cases that follow a state court decision, Nichols v. State Farm, that creates a common law, a bad faith cause of action specifically against insurance companies in our state. Now, what that would allow these objectors and other class members to do in South Carolina is to bring individual actions, just not for their actual damages -- in some of these cases, actual damages, as the Court can readily see, go to 2-, 300,000. But also to obtain punitive damages.

Why would we assume that these may be punitive

damages cases? We only have to look to the Metzger decision in Oklahoma, where the Court -- where the plaintiff was granted over $10 million in punitive damages in that individual case.

So what I'm saying is, we really are unique, Your Honor. We really don't belong in this class. We have a pending federal district court class action going on in South Carolina that can certainly adequately protect these South Carolinians. There are 6,269 of them that are policyholders. I think 231 have been stricken by cancer and would have claims in this settlement. Many of those are going to be six figure claims.

And so it's the old story that sometimes in trying to make one size that fits all, it just doesn't work. And the best thing to do is to shrink the class a little bit to a size that is manageable, where all the class members are being treated the same way. Because South Carolinians would be treated disparately if they were involved -- if they were required to stay in the class. I don't want to wax on too long. I know you've got a lot to do, Your Honor. I do have another motion to make.

THE COURT: All right. Go ahead.

MR. KNIE: I filed, I believe, as a written motion asking the Court to extend time to opt out and

require further disclosure. Some of the arguments are the same, Your Honor.

The South Carolina notice -- I mean, the notice that South Carolinians received, just like everybody else, Judge, talked about this South Carolina actual charges statute. All they had to do is to add one sentence to that notice to say, "However, it only applies prospectively --" or in the future to make it clear to South Carolinians that it really does not apply to current policyholders.

But they didn't do that, and they are -- certainly were aware of the state of the law or should be aware of the state of the law, and should be aware of Judge Joe Anderson's decision. If they were required to renotice, we could solve several blunders and inadequate explanations and, frankly, a misrepresentation about the South Carolina statute.

Your Honor, there's another problem that I would like to call the Court's attention to, and there's another reason why this matter needs to be renoticed. And there was a letter -- one of several South Carolinians received letters in response to complaints why are you cutting my benefits. Here's an example of one received by one policyholder on August 15th, 2006, from a Connie Whitlock, vice president of the

defendant.

And on page 2, Your Honor, you will see that Ms. Whitlock refers to the district court decision in Ward, the first decision before it was reversed by the Supreme Court -- I mean, the Court of Appeals. And it's telling this policyholder, "This is the rule of law in South Carolina." Well, the problem, Judge, if I may, is that they never wrote and told these policyholders later that the rule of law had changed. And it would have been very simple to do that in 2009, when they sent out the class notice, some three years later, by simply saying, "By the way, the Ward decision has now been reversed in South Carolina."

Would that have been a fair notice? Absolutely. And in a national class, the law is clear. You have a duty, if you're sending out the notice, to advise various states of particular and unique laws in their state. So while that was not a misrepresentation when it was mailed, the failure to later inform the class in the class notice of what took place, Your Honor, at least as to South Carolinians, misled them. So for those reasons, we feel like a new notice needs to be sent and that it needs to have further disclosure to South Carolinians, in the event that the Court just doesn't carve us out, which is the simple solution to

this problem, Your Honor.

Your Honor, also, in the alternative, once again, it's my understanding that if the Court, for some reason, chose to deny these first two motions -- and I would hope that you would grant the first. Then I would move in the alternative -- and I believe during the course of the hearing in Arkansas, you can move verbally without the need for filing a written pleading. But I would move that you would at least allow Steve Hege and Lillian Logan, a Georgia class member that I represent, to opt out of this class.

Mr. Hege nor Ms. Logan had counsel when they decided to object rather than opt out. They're terminally. I mean, they couldn't travel here to Arkansas to defend themselves. They have secured my services since.

And the sad part with Mr. Hege, being a South Carolinian, he had to make the decision to object rather than opt out not knowing about the Ward decision, not knowing about the prospective nature of the South Carolina statute, not knowing about the South Carolina insurance regulation, or the line of cases in Nichols about bad faith because it wasn't in the notice. So in the end, what we're all about, this is a, quote, "fairness hearing," Judge. We're just here

THE COURT: I understand. Who else?

MR. DAN TURNER: If the Court is going to hear our motion, I'm 10 minutes, 15 minutes maybe.

MR. KNIE: May it please the Court, although I had preliminary motions, I do have objections to put on the record. And it will be brief because obviously some of the previous arguments will be incorporated into the objection.

THE COURT: That gives me an idea what I need. Court will be in recess till 1:15.

(Recess.)

THE COURT: Go ahead, Mr. Knie.

MR. BOHRER: Your Honor, may I interrupt one second, please? Just we would like to lodge an objection on behalf of both plaintiff and defendant to Mr. Knie presenting with respect to any objection. To our knowledge, there has been no timely filed notice of appearance in accordance with the preliminary approval order and as set forth in the notice.

And to be consistent, Your Honor, I know this issue arose last month with an attempt by Mr. Tony Gould to appear through an untimely notice of appearance, and the Court denied that. So for consistency purposes, and because there is no timely filed notice of appearance, we object to Mr. Knie

presenting today on behalf of an objector.

THE COURT: All right. And I, to be honest with you, lost track of who has done what. And I appreciate that. Mr. Knie, I am going to let you do a couple of things, one, make any record you want on that issue. And I'm trying to look through here. And on whose behalf were you going to be arguing your objection?

MR. KNIE: Only on behalf of Mr. Stephen Hege, who employed me very recently, Your Honor, well after the deadlines. And he is terminally ill and takes treatments daily.

In addition to that, his immune system is such that he is unable to come to a public forum himself. He and his wife have purchased a self-contained camper to travel in with bathroom and everything, so they're not exposed to the public. This is about fairness. And if there's ever been a situation which screams out for the Court's discretion to allow someone to speak when an individual unrepresented didn't request to speak under those circumstances, I would argue that this is it. I will be very brief. As I said, I do have a plane to catch. I'm not going to tie up much of the Court's time.

THE COURT: Well, I have his letter here. It was received in the clerk's office on June the 29th, 2009.

And I will let you speak briefly, but am considering essentially this as his objection, this meaning his letter that was sent, I guess.

MR. KNIE: Thank you, Your Honor. I appreciate it. I'm sure he appreciates it, as well. If I may, Your Honor.

THE COURT: All right.

MR. KNIE: First of all, I know the Court recognizes that Mr. Hege, as an objector in June of this year, was not a lawyer, and he could only factually, and as a lay person, speak his feelings and certainly could not speak to legal issues and the things that this Court must consider as a legal matter.

The first point I would make by way of objection in asking this Court to not only set aside its preliminary approval, but to deny final approval today is that there is a distinct inter-class conflict going on here. And it's not a minor one, it is a major class conflict.

What we have, Your Honor, is, we have policyholders that have submitted small claims. And as one of the gentlemen said this morning that spoke, on a $10,000 difference in the claims between the billed amount and the amount they're willing to pay, they're going to get $4,000. Now, that's 40 percent. Mr. Hege

has got $75,000 in outstanding claims. But what's happening is that his claims are mushrooming as we speak because of the chemo and the radiation and such that necessarily goes on in this multiple myeloma situation that he's got.

So what he's going to have is possibly a $100,000 difference, just to use an example, and he will only get a cap of 15,000. So rather than getting the 40 percent, as these gentlemen spoke about, he'll get 15 percent. So that class conflict between the smaller claimants and the largest claimants is such a real inter-class conflict that I would argue that unless the cap is removed, that this Court seems bound to set this proposed settlement aside. There is no reason for this cap. This company is going to save hundreds of millions of dollars by this, Your Honor. And they can afford the cap coming off.

The second thing I would say is -- and as Mr. Phillips very wisely pointed out, Your Honor, the class notice is designed to get people in the class. If you really want to be fair, you have an opt-out form just like you have a claim form. They've got three separate claim forms. But to a Steve Hege, who did a pretty good job of preparing an objection, Your Honor, there was no opt-out form to use. He couldn't look at

a form in the face like a claims form and say, "What should I really do?" He would have to create something himself and hope that it complied.

But the worst part, Your Honor, is, why does he have to file a claim at all? He has already filed claims for $75,000. If this settlement is approved, the Steve Heges of the world should simply get a check. The reason they are requiring a new claim is that these counsel know that in class settings, there is generally a very low response to the claims. Many people will just think it's just not worth my time or I'll never get anything out of it, so they don't fill out a claim.

But my point is, if Steve Hege has already submitted a claim for his $75,000 in past due benefits, why, he should get that check right away. He shouldn't be required to have a new judicially-imposed element to his contract that would require yet another hurdle to get money that is due him.

Your Honor, there's also a real issue with the rate freeze. They are saying, "Well, these people are getting a rate freeze of a year." But what, we're now in mid-November. And, you know, unless the Court rules today, it could be that there will be maybe only a 30-day rate freeze. They can't take credit for past consideration. The law of almost every state says that

past consideration is not adequate consideration to bind. It has to be present or future consideration. So we would also center an objection that this is not fair consideration.

And then last of all, on behalf of Mr. Hege, I would argue that even though Arkansas law does say that there does not have to be a state-by-state analysis of a national class action, Arkansas law cannot just shun what the US Supreme Court has said in the Schutz decision which says that there does need to be one. And I would argue that when the law of a state is in conflict with the United States Supreme Court, that the United States Supreme Court is the court that ultimately decides that.

Just two more quick points, Your Honor. Mr. Phillips also spoke to something -- and let me just back up one second. If this settlement is not fair to Steve Hege but most other class participants -- and they say up to 20 percent of the class participants are the high-dollar participants, so this class is not fair to 20 percent of the participants.

THE COURT: Well, we're getting a little far afield of Mr. Hege's letter arguing on behalf of other class members.

MR. KNIE: Well, arguing on behalf of Mr. Hege,

but I'm just using that to show that there's really 20 percent of this class is the Steve Heges of the world.

THE COURT: I understand. This is Steve Hege's objection and not those.

MR. KNIE: I'll pull it back in, Your Honor. Then if he is not being treated fairly, Your Honor, that violates the Supreme Court case of Amchem Products v. Windsor which says the Court should reject any settlement which is not fair to all class members.

Mr. Phillips made an excellent point earlier when he said that what they're asking this Court to do is to create a coordination of benefits among insurance policies. And I believe he said that under Mississippi law, that was illegal unless it was in the contract. It is not in these contracts.

THE COURT: Well, and that's not in this letter either. So I was going to allow you to argue the arguments made by Mr. Hege that he preserved in his letter. But we're getting well far afield of that.

MR. KNIE: Then I will conclude with my remarks, Your Honor, other than to ask the Court to consider that we be allowed to submit closing argument memorandums on the basis that from 5:30 until 10:00 last Friday night, I received 25 e-mails from

plaintiffs' counsel and defense counsel simultaneously. I'm not saying they talked, but it was shocking that they started coming in at exactly the same time, that contained their memorandum and exhibits for this hearing today. It was literally impossible after the close of business Friday night to adequately respond to those. And much has gone on today that requires digestion and response, I would submit, both by the Court and counsel.

So we would ask for permission to respond to those on a fairly reasonable basis. And hopefully, the Court will grant that. And that's all I have, Your Honor. And I do appreciate your time and your consideration for Mr. Hege and all the South Carolina class members.

THE COURT: All right. And you are either free to go or stay or walk out when you are ready. You don't need me to call a break.

MR. KNIE: I'll stay a while. Thank you, Your Honor.

MR. MATTHEWS: Gail Matthews for the objector James and Loretta Carroll, Daniel Crager, and William and Kathleen McWhorter. I don't claim to be a class action expert.

THE COURT: You may be now, Mr. Matthews.